

EXHIBIT D

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4

HAROLD KELLY MURPHY,

Plaintiff,

vs.

CASE NUMBER

2:06-cv-618-MEF

7 SOUTHERN ENERGY HOMES,
8 INC., et al.,
9 Defendants.

10 * * * * * * *

11
12
13 DEPOSITION OF BOBBY PARKS, taken
14 pursuant to stipulation and agreement
15 before Barbara A. Howell, Certified
16 Court Reporter and Commissioner for the
17 State of Alabama at Large, ACCR No. 123,
18 in the Law Offices of Beasley, Allen,
19 Crow, Methvin, Portis & Miles, P.C., 272
20 Commerce Street, Montgomery, Alabama, on
21 Tuesday, November 27, 2007, commencing
22 at approximately 11:00 a.m.
23

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A P P E A R A N C E S

FOR THE PLAINTIFF:

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FOR THE DEFENDANTS:

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1 S T I P U L A T I O N S

2 It is hereby stipulated and agreed
3 by and between counsel representing the
4 parties that the deposition of BOBBY
5 PARKS is taken pursuant to the Federal
6 Rules of Civil Procedure and that said
7 deposition may be taken before
8 Barbara A. Howell, Court Reporter and
9 Commissioner for the State of Alabama at
10 Large, without the formality of a
11 commission; that objections to questions
12 other than objections as to the form of
13 the questions need not be made at this
14 time but may be reserved for a ruling at
15 such time as the deposition may be
16 offered in evidence or used for any
17 other purpose as provided for by the
18 Federal Rules of Civil Procedure.

19 It is further stipulated and agreed
20 by and between counsel representing the
21 parties in this case that said
22 deposition may be introduced at the
23 trial of this case or used in any manner

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1 by either party hereto provided for by
2 the Federal Rules of Civil Procedure.

3

4 * * * * *

5

6 BOBBY PARKS

7 The witness, having first been duly
8 sworn or affirmed to speak the truth,
9 the whole truth, and nothing but the
10 truth, testified as follows:

11 THE REPORTER: Usual
12 stipulations?

13 MR. SIMPSON: Sure.

14 EXAMINATION

15 BY MR. SIMPSON:

16 Q. Almost good afternoon. Good morning.

17 A. Yes, sir.

18 Q. We've met before. Let me start by
19 marking some exhibits and we'll just
20 jump right into this. Let me mark
21 Exhibit #1.

22 (Defendants' Exhibit #1 was
23 marked for identification.)

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1 with you?

2 A. I'm not aware of -- they've not
3 actively been to a home with me.

4 Q. Have you had conversations with them
5 where discussions were had that they
6 might start consulting with the Beasley
7 team on these homes?

8 A. Yes, sir.

9 Q. And tell me about those conversations
10 and what was said.

11 A. I was recently at a building science --
12 continuing education building science
13 fundamentals with Joseph Lstiburek and
14 John Straube. I've actually known
15 Joseph Lstiburek for several years,
16 been to his home and to the Westford
17 symposium. We've had conversations in
18 the past. He does -- he doesn't do the
19 expert work; however, Dr. Straube does.
20 And there was a conversation of --
21 actually, Joseph Lstiburek has agreed
22 to go -- or volunteered to go with me
23 to the Manufactured Housing Consensus

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1 Committee, if granted an audience, to
2 present the presentation and to support
3 the change in the standard that I have
4 submitted.

5 Q. You have submitted a standard to the
6 consensus committee?

7 A. I have.

8 Q. Where is that? Do you know?

9 A. That's the removing the barriers, and
10 the form is with it. It's already been
11 given to Robert Solomon at NFPA.

12 Q. So Mr. Lstiburek has agreed to travel
13 with you to any kind of consensus
14 committee presentation?

15 A. He -- he asked to go. He wanted to go
16 to that. He volunteered on his own.

17 Q. Is he playing any part or receiving any
18 income in expert advice in the Beasley
19 homes?

20 A. No, sir, he's not.

21 Q. The other fellow, Dr. Straube?

22 A. Yes, sir.

23 Q. What is his full name?

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1 A. Dr. John Straube. He is the partner
2 with Joe in the Building Science
3 Corporation.

4 Q. Is Neil Moyer a part of that group as
5 well?

6 A. No, sir.

7 Q. And John Straube is -- what is his
8 background and credentials?

9 A. He is a -- I don't know. You'll have
10 to get that information from him. I'm
11 not fully familiar.

12 Q. Well, is he actively participating in
13 any level of expertise in these cases
14 that you're aware of?

15 A. I'm not aware of the status of that.

16 Q. Were you privy to conversations where
17 discussions were had about his possible
18 involvement?

19 A. I talked to him about his possible
20 involvement.

21 Q. What did you say to him?

22 A. In the conversation of the
23 removing-the-barriers issue, and he

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1 offered to write a letter of review and
2 opinion and also help to support that
3 change being made in the standard. We
4 spoke about he was very aware of the
5 litigation that was going on down here.
6 I simply mentioned that I would love to
7 have him as -- as part of the team, and
8 he agreed to speak to counsel. So --
9 and I don't know where it's went from
10 there.

11 Q. Anybody else that you've had
12 conversations with -- other design
13 professionals, engineers, architects --
14 anyone else that you've been privy to
15 conversations or know about
16 conversations where people might be
17 added as experts in these cases?

18 A. I can't really recall -- yeah. There
19 was another gentleman a while back, but
20 I don't know -- that was a Mr. Bud
21 Offerman, but I don't know if anything
22 ever -- I don't know, you know, what
23 conversations or anything ever had.

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1 this many times.

2 A. Yeah.

3 Q. You think there's interplay between 303
4 and 504. I disagree. But I think we
5 agreed in the last case -- and I want
6 to see if you've changed your mind --
7 that even though 504 is not technically
8 violated, you think 303 may be.

9 A. I think the improper use of 504 -- I
10 can't -- you can't say that 504 has
11 been technically violated, no, you
12 can't. But --

13 Q. Now, 504(b)(4), the new code section,
14 has a geographic restriction; right?

15 A. Yes, sir, it does.

16 Q. And (b)(1) has no geographic
17 restriction.

18 A. Not at this time.

19 Q. And you're lobbying for one.

20 A. Yes, sir, I am.

21 Q. And that's that whole discussion you
22 were talking about where Joe Lstiburek
23 is going to go with you to the

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1 consensus committee; right?

2 A. If afforded the opportunity, yes, sir.

3 Q. And the intent of your presentation to
4 the consensus committee, if you're
5 given that opportunity, is to create a
6 geographical restriction to the
7 application of (b)(1) walls.

8 A. Simply -- simply as an exemption that
9 (b)(1) should not be utilized in areas
10 identified as (b)(4). (B)(4) was
11 offered as an alternative to (b)(1);
12 therefore, it doesn't make sense that
13 both options would be proper.

14 Q. So you want the code to change so that
15 you can't build a (b)(1) wall in the
16 humid and fringe-zone climate.

17 A. I believe that would be the proper
18 thing to do, yes, sir.

19 Q. And until that change happens, it's
20 still okay to build one there, by code.

21 A. By code. If they're silly enough to
22 keep doing it, then I guess so.

23 Q. Now, page 1 of your report, this is

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1 REPORTER'S CERTIFICATE

2

3 STATE OF ALABAMA)

)

4 ELMORE COUNTY)

5

6 I do hereby certify that the above
7 and foregoing transcript was taken down
8 by me in stenotype, and the questions
9 and answers thereto were transcribed by
10 means of computer-aided transcription,
11 and that the foregoing represents a true
12 and correct transcript of the testimony
13 given by said witness.

14 I further certify that I am neither
15 of counsel, nor of any relation to the
16 parties to the action, nor am I anywise
17 interested in the result of said cause.

18

19

20 Barbara A. Howell, Certified
Court Reporter and Commissioner
21 for the State of Alabama at Large
ACCR NO. 123 - Expires 9/30/08
22 MY COMMISSION EXPIRES: 12/27/08

23